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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,030

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Ian Geoffrey Worton

3009-1016

9721

466

7590

06/26/2008

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EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,030	Applicant(s) WORTON ET AL.	
	Examiner Joseph M. Pelham	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-11 and 13-22 is/are rejected.
- 7) ☒ Claim(s) 5-7 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/10/05, 5/6/05</u> . | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 103

Claims 1-4, 8-11, and 13-22 are rejected under 35 U.S.C. 103(a) as being obvious over US Pat. 1510547 in view of DE2949107.

Referring to Figs. 1-4 and lines 23-47, US'547 discloses the invention substantially as claimed, including a plurality of discrete, inclined "elongate members" A separated by 5 to 15 mm (which, prima facie, appears to obtain at selected facing points along adjacent members at least, particularly in view of the size of the device), formed from sheet metal to have "two side faces and the lateral portion" C and having a contact surface B, a lateral portion with a channel C below the contact surface by at least 1 mm, the channel being clearly at least 0.5 MM wide and 1 mm deep (see parenth. note above), and an attached collection receptacle H.

The rack of US'547 is made for flame cooking, hence for a "barbecue heating device," as recited in claim 19.

Referring to claim 16, the lower side of contact region B clearly "fits over a rod," which is an intended use and as such not given patentable weight if the prior art device is capable of performing the intended use. The underside of region B is clearly capable of accommodating a rod.

Although US'547 is silent on whether the spacing of the elongate members is such as "to expose the [cooked item] directly to the heat source" (claim 1), Fig. 4 indicates that convection heating (explicitly disclosed) is supplemented by direct radiant heat which passes through adjacent members A to be obliquely ($\sim 45^\circ$), but directly, incident on a cooked item. Nevertheless, DE'107 discloses, at Fig. 1 and page 5, the penultimate paragraph, supplementary direct radiant heating provided by an analogous cooking rack. "Next to the frying pan effect, the grilling process is completed by radiant heat that is [incident at] under 45° on area 6, from glowing coals" (Examiner's translation). It would have been obvious to utilize radiant heating with the grilling effect since DE'107 shows such to provide desirable cooking effects.

Referring to claims 9, 10, 14, 15, and 21, while US'547 does not explicitly disclose a curved rack with its high point at mid-span, or transverse support rods, this does not patentably distinguish the claimed invention from the prior art. It would have been obvious to so form the rack of US'547 in view of DE'107 since it is a conventional manner of shortening the travel length of the exudate, and thereby lessen the likelihood of particulate matter accumulating into a blockage. And it would have been obvious to utilize rods instead of the "bars" of US'547 since it is a conventional alternative which effects no critical advantage or disadvantage.

Allowable Subject Matter

Claims 5-7 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph M. Pelham/
Primary Examiner, Art Unit 3742
6/21/08